Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Mid-Rivers Telephone	)	
Cooperative, Inc. for Order Declaring it to	)	WC Docket No. 02-78
be an Incumbent Local Exchange Carrier	)	
in Terry, Montana Pursuant to Section	)	
251(h)(2)	)	

COMMENTS OF IOWA TELECOMMUNICATIONS SERVICES, INC. (D/B/A IOWA TELECOM)

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COMMENTS OF IOWA TELECOMMUNICATIONS SERVICES, INC.
(D/B/A IOWA TELECOM)

Iowa Telecommunications Services, Inc. (d/b/a Iowa Telecom) ("Iowa Telecom") hereby submits the following Comments in response to the Commission's Notice of Proposed Rulemaking concerning the Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(h)(2) ("*Notice*").[1]

I. INTRODUCTION AND SUMMARY

The Commission has yet to act on a request that a CLEC be treated as an incumbent local exchange carrier ("ILEC") for purposes of Section 251 of the Communications Act of 1934, as amended,[2] in a geographic market in which an ILEC already operates.[3] In light of this, the Commission has sought comment on a number of broad issues pertaining to the application of

[1] *Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(h)(2)*, Notice of Proposed Rulemaking, WC Docket No. 02-78, FCC-04-252 (rel. Nov. 15, 2004)("*Notice*").

[2] 47 U.S.C. § 251.

[3] 47 U.S.C. § 251(h)(1).

Section 251(h)(2), the relevant statutory provision, to Mid-Rivers Telephone Cooperative, Inc. (Mid-Rivers") and to similarly-situated carriers.

As recognized in the *Notice*, the facts that the Commission might consider in resolving requests such as that of Mid-Rivers may be pertinent to a number of important related policy matters, such as a carrier's classification for universal service and interstate access charge purposes. Section 251(h)(2), however, exclusively concerns a carrier's treatment under Section 251 of the Act.[4] Thus, unless a petition seeks Commission action under a statute or rule other than Section 251(h)(2) of the Act, public interest benefits and detriments not directly pertaining to ILEC obligations under Section 251(c) should be considered separately in their appropriate dockets.[5] For example, while public policy considerations such as establishing "rewards" and "incentives" for rural investment by CLECs (or, more relevantly, any carrier) are surely important, such public policy "benefits" result from greater interstate access charge receipts and universal service funding and rely on unrelated hypothetical future proceedings, such as requests for waiver of the freeze on study area boundary modifications. As discussed below, unless the Commission considers such unrelated benefits stemming from such unrelated hypothetical future proceedings on an independent basis, the Commission may appear to bind itself to future courses of action that are not warranted on policy or legal grounds.

[4] As discussed below, this is despite the fact that such regulatory regimes use the term "incumbent local exchange carrier."

[5] It may well be the case that many of the stated facts, if true, could lead to a conclusion that Mid-Rivers should not only be made subject to the incumbent local exchange carrier ("ILEC")-level interconnection requirements of 47 U.S.C. § 251(c), but should perhaps be treated as a historic ILEC for other purposes, as well, such as universal service and interstate access charge regulation. Iowa Telecom is not in a position to comment on such facts.

How the historic ILEC should be treated under Section 251 is, however, directly implicated by a petition concerning a CLEC under Section 251(h)(2), because Section 251(h)(2)(B) requires the Commission to find that the CLEC has "substantially replaced" the historic ILEC.[6] Therefore, Iowa Telecom suggests that in seeking comment on Section 251(h)(2) petitions, the Commission, as a matter of course, seek comment on its own motion whether the Commission should forbear under Section 10 from applying Section 251(c) obligations to the historic ILEC.[7] In considering the merits of such forbearance, the Commission should establish a rebuttable presumption that, to the extent that the CLEC has, indeed, "substantially replaced" the historic ILEC, each of the requirements for forbearance under Section 10 is met. A set of facts meeting the criteria of Section 251(h)(2) will, by their nature, establish sufficient grounds for relieving the historic ILEC from Section 251(c) obligations and meet the criteria of Section 10.

Finally, Iowa Telecom notes that the Commission should retain a cooperative working relationship with state commissions as part of this process because many state commissions share jurisdiction over the market-opening obligations of ILECs and the corresponding rights of CLECs. The Commission should extend its historical cooperation with state commissions to issues raised by petitions pursuant to Section 251(h)(2).

[6] 47 U.S.C. § 251(h)(2)(B).

[7] 47 U.S.C. § 160.

II. SECTION 251(H)(2) PERTAINS ONLY TO TREATMENT UNDER SECTION 251 – OTHER MATTERS SHOULD BE CONSIDERED SEPARATELY AND ON THEIR OWN MERITS.

In considering the public interest implications of treating a CLEC as an ILEC for purposes of Section 251, the Commission must narrow its consideration to implications that are tied directly to treating the CLEC as an ILEC for purposes of Section 251. Unless explicitly raised through an independent request for Commission action, the Commission should not consider implications that would result from separate potential Commission actions, such as regulatory "rewards" or "incentives" provided through hypothetical dramatically increased universal service support and interstate access charge receipts. Failure to adopt such an analytical structure for consideration of Section 251(h)(2) petitions risks the Commission seemingly binding itself to certain courses of future action, such as granting expected requests for waivers of the study area boundary freeze, based on consideration of ultimately irrelevant hypothetical matters that, on a legal basis, require independent requests for Commission action.[8] Further, through such independent consideration, the Commission would also have the full opportunity to consider that policy considerations may very well support treating a non-historic ILEC differently for Section 251 purposes than for universal service or interstate access charge purposes – an outcome currently contemplated by the Act and the Commission's rules.[9]

A precise reading of Section 251(h)(2) yields the conclusion that a Commission ruling under Section 251(h)(2) does not literally transform the CLEC into an "ILEC," but, instead, provides for treatment as an ILEC. More importantly, such treatment is only for purposes of

[8] This is not to say, however, that the Commission may not require a CLEC to bear Section 251(c) obligations as a prerequisite to being regulated as an incumbent under other provisions of the Commission's rules.

[9] Iowa Telecom would not take issue with a carrier filing concurrent petitions regarding such matters.

Section 251. Nothing in the Act or the Commission's rules extends a carrier's treatment as an ILEC under Section 251(h)(2) beyond the narrow scope of Section 251 of the Act and corresponding Commission rules.

Section 251(h) discusses the definition of ILEC for the purposes of Section 251.[10] Three other provisions of the act make reference to this definition: Sections 224(a)(5) (excluding ILECs from the group of telecommunications carriers with pole attachment rights), 47 U.S.C. § 259(a) (infrastructure sharing), and 47 U.S.C. § 275(b) (imposition of non-discrimination obligations with respect to alarm monitoring). Each cross-reference the definition of ILEC in Section 251(h) (with no more specificity). As discussed above, however, because Section 251(h)(2) does not provide for the definition of ILEC to be altered to include particular CLECs but, instead, provides for similar treatment, these cross-references can be read more specifically to reference Section 251(h)(1), particularly given the "for the purpose of" language in Section 251(h)(2).

The Commission's rules implementing Section 251(c) are mostly found in Part 51 of the Commission's rules. Section 51.5 defines ILEC as follows:

> With respect to an area, the local exchange carrier that: (1) On February 8, 1996, provided telephone exchange service in such area; and (2)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to §69.601(b) of this chapter; or (ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in paragraph (2)(i) of this section.[11]

[10] 47 U.S.C. §§ 224(a)(5), 259(a), 275(b).

[11] 47 C.F.R. § 51.5

This identical definition is repeated in Part 52, which includes the Commission's rules implementing the numbering provisions of Section 251(b).[12] These are the only parts of the Commission rules, at least of any significance, pertaining to Section 251 of the Act. Thus, it would seem that, to the extent that the Commission is treating a CLEC as an ILEC for purposes of Section 251, this would be the limit of the Commission rules automatically affected by a Commission determination under Section 251(h)(2).

There are, however, other provisions of the Commission's rules that repeat the definition found in Section 251(h)(1). The first is Section 54.5 which, for purposes of the Commission's universal service rules (Part 54), defines ILEC as having "the same meaning as that term is defined in § 51.5 . . . ."[13] Second, for purposes of rules pertaining to the interstate exchange access regime (many of which predate the Act and therefore use the terms "telephone company" and "local exchange carrier" instead of ILEC), Section 69.1(hh) states that "'[t]elephone company' or 'local exchange carrier' as used in this part means an incumbent local exchange carrier as defined in Section 251(h)(1) of the 1934 Act as amended by the 1996 Act."[14] Part 59 (infrastructure sharing) incorporates by reference the definition of ILEC "as defined in 47 U.S.C. section 251(h))."[15] Because only Section 251(h)(1) of the Act (as opposed to Section 251(h)(2), as well) contains a "definition," this rule provision can be read as more specifically cross-referencing Section 251(h)(1). Each of these definitions was adopted in current form since enactment of the 1996 Act and is ultimately either a direct or indirect repetition of Section

[12] *See* 47 C.F.R. § 52.5.

[13] 47 C.F.R. § 54.5.

[14] 47 C.F.R. § 69.1(hh).

[15] 47 C.F.R. § 59.1 (repeating the statutory reference in 47 U.S.C. § 259(a).

251(h)(1) of the Act.[16] These provisions notably make no reference to Section 251(h)(2). Further, the substantive rules relying upon these definitions make no provision for a carrier that is subject to "treatment" as an ILEC.[17] To the extent that the Commission desires to treat a CLEC as an ILEC for purposes other than merely Section 251, it would have to make explicit changes to other relevant portions of its rules.

From a policy perspective, it is not surprising that the Commission chose not to include direct or indirect reference to Section 251(h)(2) in establishing sections of its rules not pertaining to Section 251 obligations. For example, large portions of the interstate access charge regime, particularly for rural carriers, have historically been directed at permitting carriers that have borne incumbent carrier of last resort obligations for decades to continue to recover their sunk costs made under regulatory compact. Similarly, many assumptions of the universal service regulatory regime, particularly for rural carriers, are based on the presumed participation of such carriers for the same historical reasons. Matters such as the propriety of two carriers operating in the same study area receiving different levels of ILEC universal service support are, indeed, complex matters that should be considered on a case-by-case basis and, therefore, certainly not resolved in a manner financially beneficial to the CLEC without adequate consideration of the merits. Such matters are best considered in the context of the relevant dockets, such as CC

[16] An exception is the provision of the Commission's rules pertaining to the applicability of the Uniform System of Accounts ("USOA"). This provision states: "For purposes of this section, the term 'company' or 'companies' means incumbent local exchange carrier(s) as defined in section 251(h) of the Communications Act, and any other carriers that the Commission designates by Order." 47 C.F.R. § 32.11(a). Ultimately, however, the USOA rules are merely accounting rules to which other substantive rules, such as those contained in Parts 54 and 69, apply. Therefore, for Section 32.11(a) to have any substantive significance, the definitions in Part 54 and 69 would have to be written similarly.

[17] Because only Section 251(h)(1) pertains to the "definition" of ILEC, as opposed to carriers to be treated as an ILEC (merely for purposes of Section 251), the definition in Part 59 should be read as referring only to Section 251(h)(1).

Docket Nos. 96-45 (Federal-State Joint Board on Universal Service) and 96-262 (Access Charge Reform).

Further, it should be noted that the Commission's rules and precedent maintain a variety of distinctions between ILECs, such as Bell Operating Company and non-Bell Operating Company, and subject carriers to different sets of regulations based on such categorizations. The Commission has and should continue to maintain such distinctions with regard to Sections 251(h)(1) and 251(h)(2) (that is, disparate treatment for historic (definitional) ILECs and CLECs treated as ILECs pursuant to Section 251(h)(2)) and consider non-Section 251(c)-related definitional requests concerning CLECs separately and on their own merits.

The Commission's public interest inquiry under Section 251(h)(2)(C) should be limited to the public interest benefits of imposing Section 251(c) obligations on the CLEC – concerns relating to the extent to which the CLEC controls access to bottleneck facilities in the relevant geographic market necessary for the provision of local exchange service and the benefits derived from mandating cost-based competitive access to such facilities. CLEC petitions that concern only Section 251(h)(2) yet include public interest benefit claims apart from the competitive benefits of applying ILEC-level interconnection, resale, and unbundling requirements on the CLEC should be viewed with significant skepticism as they are clearly reliant on separate Commission action that the applicant fails to discuss openly.[18]

An excellent example of such an irrelevant public interest claim in a Section 251(h)(2) petition is the notion that treating a CLEC as an ILEC for purposes of Section 251 creates some sort of "reward" for that CLEC's investment or "incentive" for that CLEC or other CLECs to

[18] To the credit of Mid-Rivers, Iowa Telecom notes that the Mid-Rivers Petition did at least include a reference to the type of further Commission actions that it was contemplating. Mid Rivers Petition at 3.

invest further in rural areas. Presumably, these rewards and incentives are based on dramatically increased universal service support and interstate access charge receipts. Currently, Mid-Rivers and similarly-situated CLECs receive universal service support based on the level of support received by the historic ILEC in the relevant study area. Similarly, such CLECs' interstate access charge rates are limited to those charged by the historic ILEC with which such CLECs compete. CLECs that have achieved the level of market share claimed by Mid-Rivers tend to have entered their markets by extending their affiliated ILEC network into an adjacent exchange. Their affiliated ILECs often receive significantly more universal service funding and greater interstate access charge receipts per line than the historic ILEC with which the CLEC competes. If such an ILEC affiliate successfully requests a waiver of the freeze on study area boundary modifications, however, it can "roll" its CLEC customers into its own ILEC study area(s). This, coupled with any necessary changes to the Commission's definition of "ILEC" in Parts 54 and 69 of its rules (discussed above), would permit the ILEC operating company to receive its ILEC-level universal service funding and interstate access charges for its former affiliated CLEC lines – creating significant increases in revenue without incurring any additional cost.

The rewards resulting from the Commission granting a CLEC's Section 251(h)(2) petition and the incentives created from such a grant may be the primary public interest benefits claimed by such a Section 251(h)(2) petitioner. These expectations, however, flow from an assumption that requests for waiver of the freeze on study area boundary modifications and amendments to the definitions of ILEC found in Parts 54 and 69 are approved – requests which, as discussed above, are independent of a Section 251(h)(2) petition.

To be sure, encouraging investment in rural areas is an important policy matter for the Commission to consider and involves creating incentives both ILECs as well as CLECs – a

matter that is the subject of ongoing proceedings before the Commission and the Joint Board in CC Docket No. 96-45. These concerns, however, are unrelated to the treatment of a CLEC as an ILEC for purposes of Section 251. Given the fluidity of rural high-cost universal service policies, the Commission should not assume particular outcomes of unrelated proceedings, such as the request for waiver of the freeze on study area boundary modifications discussed in the Mid-Rivers Petition[19] and the potentially necessary alterations of definitions in the Commission's rules in considering Section 251(h)(2) petitions.

As a final note, Iowa Telecom points out that certain factual claims alleged to the Commission as part of Section 251(h)(2) petitions should also be analyzed carefully for relevance. For example, the Commission states in the *Notice* that it "believe[s] there may be benefits both to consumers and potential competitors in the technical capabilities of Mid-Rivers' network, especially in comparison to the existing incumbent LEC."[20] Iowa Telecom questions the relevance of this observation by the Commission. Concluding that the degree to which a network can provide advanced services should correlate directly with the degree to which such network should be subject to unbundling obligations would seem to contradict the Commission's recent precedential trend toward removing advanced technologies from Section 251(c) obligations.[21] Further, given the transparency of regulatory classifications to consumers, it would be irrational to assume that bestowing ILEC status on a particular carrier, particularly solely for purposes of Section 251, would "reward" the CLEC by drawing customers to its

[19] Mid-Rivers Petition at 3.

[20] *Notice* at ¶ 10.

[21] *See, e.g., Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Reconsideration**,** 19 FCC Rcd. 20293 (2004)(concerning fiber-to-the-curb loops).

network. Finally, if the Commission is proposing that universal service programs should be directed at carriers with the most advanced networks, the Commission is actually considering study area waiver and other universal service definitional issues, not the CLEC's status for Section 251 purposes.

III. AS A GENERAL MATTER, THE COMMISSION SHOULD REMOVE SECTION 251(C) OBLIGATIONS FROM THE HISTORIC ILEC TO THE EXTENT SUCH OBLIGATIONS ARE IMPOSED ON A CLEC IN THE SAME GEOGRAPHIC MARKET.

As discussed above, a Commission finding that a CLEC should be subject to Section 251(c) obligations must be predicated on a conclusion that regulation of competitive access to the CLEC's wholesale network for the purposes of local exchange competition is necessary. Logic dictates that for such a set of facts to arise, the historic ILEC must no longer possess sufficient market share, and resulting bargaining power, to negotiate reasonable rates, terms, and conditions on which the CLEC in question provides wholesale local exchange service. In such a circumstance, the Commission should conclude that the same Section 251(c) obligations should no longer be imposed on the historic ILEC.

Two-firm wholesale local exchange markets, such as those at issue in the Mid-Rivers Petition, can be categorized into one of three extremely broad types of categories based on a snapshot of each carriers' market share. The first category is one in which the historic ILEC's network[22] is sufficiently extensive that the historic ILEC would be relatively uninterested in purchasing unbundled network elements ("UNEs")[23] from the CLEC. As the default

[22] By "network," Iowa Telecom is referring to a network built by the carrier in question – not including facilities leased on an UNE basis.

[23] This discussion would also apply to cost-based interconnection, discounted availability of service for total service resale, collocation, etc. For the sake of simplicity, only UNEs will be discussed in this analysis.

circumstance, the Act assumes this market structure to be the case and that the historic ILEC therefore maintains significantly greater bargaining power than any CLEC (the first category of markets). To this end, the Act imposes the special obligations of Section 251(c) solely on the historic ILEC.

The second category of markets is one in which both carriers have roughly the same level of interest in purchasing UNEs. Congress envisioned this category both by establishing the impairment analysis of Section 251(d)(2)(B) (relating to Section 251(c)(3)), which requires the Commission to determine the precise market conditions in which the imposition of perhaps the primary obligation of Section 251(c) is imposed and, more generally, through the simultaneous adoption of Section 10,[24] which permits carriers to request that the Commission forbear from imposing statutory obligations.

Finally, the third category is one in which the CLEC's network is sufficiently extensive that the CLEC would be largely uninterested in purchasing UNEs from the historic ILEC. Congress hypothesized this category in establishing Section 251(h)(2), which would recognize the CLEC's disproportionate market power by providing for the categorization of the CLEC as an ILEC.

Clearly, the first type of circumstance, disproportionate wholesale market power possessed by the historic ILEC, will rarely be the case when the Commission is seriously considering treating a particular CLEC as an ILEC for the purpose of Section 251. Such facts are inconsistent with a finding that the CLEC has "substantially replaced" the historic ILEC. In such cases, the ILEC maintains its obligations under both Sections 251(b) and 251(c) while the

[24] 47 U.S.C. § 160.

CLEC maintains merely the obligations applicable to all local exchange carriers found in Section 251(b).

The second type of circumstance, in which each carrier is roughly similarly interested in purchasing each other's UNEs, concerns a set of facts in which both carriers possesses similar power in their ability to bargain. When this is the case, the parties will establish interconnection agreements with each other that reflect this – market-based competitive network access rates and reasonable terms and conditions of such access. Imposition of Section 251(c) obligations in such circumstances is unnecessary because other CLECs would have the opportunity to benefit from this bargain through exercising rights under Section 252(i).[25]

The third type of circumstance, in which the CLEC has disproportionately large bargaining power, is the type that would lead to application of Section 251(h)(2). By definition, if one of two parties has disproportionately strong bargaining power, the other (in this case, the historic ILEC), must have disproportionately weak bargaining power. Therefore, in such situations, it simply makes no sense for the Commission to continue to apply burdensome Section 251(c) obligations on the historic ILEC.[26]

The Commission asks in the *Notice* how the resulting treatment, if any, of the ILEC should be handled on a procedural basis.[27] Iowa Telecom suggests that in seeking comment on Section 251(h)(2) petitions, the Commission, as a matter of course, seek comment on its own

[25] 47 U.S.C. § 252(i).

[26] At first glance, it may seem unlikely that an historic ILEC would ever require significant access to a competitors' network, particularly to unbundled local loops as the historic ILEC theoretically previously served all customer locations in the relevant geographic market. There may have been, however, rapid growth in many of the denser areas in which CLECs have chosen to build their own networks and, under certain circumstances, CLECs may be the only carriers that has ever provided service to certain customer locations. Thus, while the historic ILEC may have facilities running near the customer premises, there might not have ever been reason to extend facilities all the way to such customer premises.

[27] *Notice* at ¶ 15.

motion whether the Commission should forbear under Section 10 from applying Section 251(c) obligations to the historic ILEC. In considering the merits of such forbearance, the Commission should establish a rebuttable presumption that, to the extent that the CLEC has, indeed, substantially replaced the historic ILEC, each of the requirements for forbearance under Section 10 is met. Among other things, when a CLEC has been able to substantially replace the historic ILEC, there should be little doubt that the historic ILEC has implemented the requirements of Section 251(c), as required by Section 10(d). Further, if the facts in a particular case do not bear this out, parties may raise this in their comments on the combined petition and proposed forbearance. In order to avoid temporary market distortions, the Commission should resolve Section 251(h)(2) requests and the Commission's *sua sponte* proposed forbearance at the same time.

When the facts lead to a conclusion by the Commission that the CLEC should be treated as an ILEC under Section 251(h)(2) and that the Commission should forbear from applying Section 251(c) to the historic ILEC, other logical Commission actions may be implicated. As discussed above, these matters are appropriate for independent consideration (along with an independent consideration of their public interest effects).[28] If the CLEC raises such matters (solely with respect to its own status), the historic ILEC may very well wish to seek complementary treatment (that is, for example, non-dominant classification if the CLEC is to be treated as dominant). The Commission should permit historic ILECs commenting on related CLEC requests to petition simultaneously for any appropriate reclassification of their own and should resolve such petitions concurrently with the CLEC request.

[28] Such independent consideration may be part of the same CLEC filing, but the merits of such CLEC requests should be considered independently.

IV. THE COMMISSION SHOULD BE SURE TO RETAIN A COOPERATIVE WORKING RELATIONSHIP WITH RELEVANT STATE COMMISSIONS AS PART OF THIS PROCESS.

The Commission appropriately recognizes the potential role of state commissions in considering issues raised by Section 251(h)(2).[29] Many states have their own laws and regulations pertaining to market-opening obligations of ILECs and the corresponding rights of CLECs. At the same time, many states have their own processes for redesignating ILECs, albeit with somewhat different implications for the historic ILEC.

The interaction between state and federal regulation becomes particularly important when the Commission considers universal service issues. For example, States maintain their own carrier of last resort rules which might be significantly disrupted if state and federal regulatory incumbent classifications differ.

Therefore, the Commission cannot assume that if it acts in a certain manner under Section 251(h)(2), that any necessary harmonizing state commission actions can or will automatically flow. The Commission acknowledged this sort of consideration in the Local Competition Order in stating that, in considering matters under Section 251(h)(2), the Commission would be "particularly interested" in the comments of the state regulatory commission having jurisdiction over the potential ILEC.[30] The Commission should retain this commitment to cooperation with state commissions.

[29] *Notice* at ¶ 15.

[30] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 1248 (1996)(significant unrelated subsequent history omitted).

V. CONCLUSION

For the reasons discussed above, Iowa Telecom respectfully requests that the Commission recognize that Section 251(h)(2) pertains only to treatment under Section 251. Other matters, such as ILEC treatment for universal service and interstate access charge purposes, and their effect on the public interest are separate legal and policy considerations and should be considered separately in their appropriate dockets and on their own merits. In contrast, however, the Commission should recognize the direct logical link to treatment of the historic ILEC under Section 251 by removing Section 251(c) obligations from the historic ILEC to the extent such obligations are imposed on a CLEC in the same geographic market. In considering these and other matters under Section 251(h)(2), the Commission should be sure to retain a cooperative working relationship with relevant state commissions as part of this process.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on this 30th day of December 2004, I caused copies of the foregoing Comments in response to the Commission's Notice of Proposed Rulemaking concerning the Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(h)(2) to be served on the following parties by electronic mail.

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